DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1- 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "an outer stud member on the outer side **of and held** captive……." renders the claim indefinite because it is unclear, confusing and thus unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 2 & 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S. 5022211) in view of MacKinnon, Jr. et al (U.S. 4471592).

Regarding claim 1, Scott teaches spaced apart plurality of composite wall studs for a wall structure comprising a central stud member (20) having opposed faces and a

recess in each face, outer stud members (20) and rigid sheet of covering (acoustic support member) affixed to one or each side of the frame (27, 84, 104). See figures 7, 24, 26 & 28 and column 7, line 53-58 & column 10, lines 65-68 & column 11, lines 11, 42-44, 68 & column 12, lines 1-8. Scott does not teach acoustic support member seated in the recess formed in the face of the central stud. However, MacKinnon, Jr. et al teaches spaced apart plurality of wall studs for a wall structure comprising stud members, an acoustic support member (12) mounted on each face of the stud members, each acoustic support member (12) being seated in the recess formed in the face of the stud members and an outer stud member on the outer side of the central stud and held captive by each acoustic support member (figures 2 & 3 and column 2, lines 10-17 & column 3, lines 18-26, column 4 lines 14-38 & claims 1 and 6).
It would have been obvious and well within the level of ordinary skills in the art at the time of invention was made to substitute the acoustic support member of Scott for that of MacKinnon, Jr. et al in order to firmly secure the acoustic support member to the flanges of the stud members.

Regarding claim 2, Scott does not teach acoustic support member having a major portion with an inner face and outwardly spaced apart arms. MacKinnon, Jr. et al teaches acoustic support member (12) that has a major portion having an inner face and outwardly extending spaced apart arms (28, 32) terminating in inwardly directed flanges which define recesses (figures 2 & 3). It would have been obvious and well within the level of ordinary skills in the art at the time of invention was made to substitute the acoustic support member of Scott for that acoustic support member

taught by MacKinnon, Jr. et al in order to modify the arrangement of acoustic support and the stud members in order to achieve a stable wall structure.

Regarding claim 4, Scott teaches plurality of spaced apart wall studs for a wall structure comprising wall sheeting (104) connecting each side of the adjacent wall studs and insulating material between the wall sheeting (figure 28 & column 12, lines 1-8).

5. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S.5022211) in view of MacKinnon, Jr. et al (U.S. 4471592) and, further in view of McCavour (U.S. 5833394). Scott and MacKinnon, Jr. et al teaches elements as described in claim 2 rejection above but neither teaches outer stud members having enlarged head. However, McCavour teaches stud member (96) having an enlarged head (108). See figure 6 & column 9, lines 20-21. It would have been obvious and well within the level of ordinary skills in the art at the time of invention was made to substitute the outer stud member as taught by either Scott or MacKinnon, Jr. et al for stud members with enlarged head of McCavour in order to secure fit the outer stud members within the flanges of the acoustic support member.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lafrance (U.S. 6209282), Rittler (U.S. 936167).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix Osanu whose telephone number is 571-270-3659. The examiner can normally be reached on M-TH & alt. F (8AM - 5PM) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David V. Bruce can be reached on 571-272-2487. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Felix Osanu
Examiner
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FO

/David V Bruce/

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